

REMARKS

Claims 25-46 are pending in this Application. By this Preliminary Amendment, claims 1-24 are cancelled without prejudice to or disclaimer thereof. Claims 25-46 are added. No new matter is added.

RESPONSE TO ELECTION OF SPECIES

In an election of species requirement mailed February 25, 2008, an election was required between six alleged species designated as Species 1, pages 1-3; Species 2, Fig. 4; Species 3, Fig. 5; Species 4, Figs. 6 and 7; Species 5, Fig. 8; and Species 6, Fig. 9.

LACK OF UNITY OF INVENTION HAS NOT BEEN DEMONSTRATED

Applicant respectfully asserts that the election of species requirement is improper as it does not comply with the rules of practice for PCT National stage applications, because the appropriate unity of invention standards have not been properly applied. The present Application is a National Stage Application submitted under 35 USC §371 and therefore unity of invention rules apply, and not restriction practice pursuant to 37 C.F.R. §1.141-1.146. In PCT National Stage Applications, the Examiner may issue a restriction type requirement if no unity of invention exists. However, the Examiner must state why there is no "single general inventive concept." (see M.P.E.P. §1893.03(d)). Thus, a single Application may include one invention or more than one invention if the inventions are "linked as to form a single general inventive concept." *Id.* If multiple inventions are included in the application, they are deemed to be linked if there exists a

“technical relationship among the inventions that involve at least one common or corresponding special technical feature.” Id.

Because the present Application is a PCT US National Stage Application, the Patent Office is required to apply the PCT unity of invention standard rather than the traditional U.S. restriction requirement practice. Further, because Application of the unity of invention standard demonstrates that unity of invention in fact exists between the species, the requirement is improper and must be withdrawn.

UNITY OF INVENTION EXISTS BETWEEN SPECIES 1-6

It is asserted in the Office Action that Species 1-6 are independent or distinct because “each embodiment has a different structure.” However, as described above, this is an improper standard in PCT National Stage Applications for requiring an election of species or restriction. Thus, the Office Action fails to establish a lack of unity of invention between the groups of claims or identified species.

As described above, unity of invention exists if there is a common special technical feature that links the groups of claims. In the present Application, the amended set of claims provided in this Preliminary Amendment satisfies the criteria for unity invention because the alleged species share a common single general inventive concept.

THE RESTRICTION REQUIREMENT IS IMPROPER EVEN UNDER U.S. PRACTICE

Although traditional U.S. practice does not apply to the present Application, for the reasons discussed above, Applicants note for the record that the election of species would be improper even under such practice. The Office Action makes the assertion that in the present case, “the species are independent or distinct because each

embodiment has a different structure.” However, the Office Action fails to provide any support for the allegation that the species are “independent or distinct,” but rather merely makes a conclusory statement that “each embodiment has a different structure” without identifying what such structure may be. For example, Fig. 7 represents a cross-section of the module in Fig. 5, yet Figs. 6 and 7 are grouped together as a single embodiment, independent and distinct from the module shown in Fig. 5. Thus, the Office Action has failed to demonstrate that the alleged species are independent or distinct from one another.

ELECTION

To fully comply with the Applicant’s obligation to elect an identified species, Applicant elects Species 4, Figs. 6 and 7 with traverse. Claims 25-46 read on the elected species. Claim 25 is generic to all identified species.

NEWLY SUBMITTED REFERENCES

Applicant submits an accompanying Information Disclosure Statement and related references for consideration by the Examiner.

CONCLUSION

Accordingly, in view of the above amendments and remarks, an early indication of the allowability of each of claims 25-46 in connection with the present Application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Donald J. Daley at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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